

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

H&R BLOCK EASTERN
ENTERPRISES, INC.

Plaintiff,

v.

CHARLES W. TURNBAUGH, In his
official capacity as Commissioner of
Financial Regulation, Maryland
Department of Labor, Licensing and
Regulation,

Defendant.

Case No. MJG-07-1822

* * * * *

**DEFENDANT’S PARTIAL MOTION TO DISMISS
AND CROSS MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Rules 12(b)(1) and 56 of the Federal Rules of Civil Procedure, Defendant, Charles W. Turnbaugh, in his official capacity as the Commissioner of Financial Regulation (“Commissioner”), Maryland Department of Labor, Licensing and Regulation, respectfully requests this Honorable Court to enter Judgment as a matter of law in this action in favor of Defendant, and there being no genuine issue of material fact, enter an Order that specifically finds as follows:

1. Denying all relief requested by Plaintiffs, including, but not limited to any ruling that would declare the Maryland Credit Services Businesses Act, Md. Code Ann., Com. Law § 14-1901 *et seq.* unconstitutional or preempted by federal statute or regulation;

2. Denying any relief requested in Count II of Plaintiff's Complaint on the basis that nothing in the National Bank Act, regulations of the Office of Comptroller of the Currency, or existing case law support a finding of preemption, and the Tenth Amendment precludes a finding of preemption in this case; and

3. Denying all relief requested in Count III of Plaintiff's Complaint on the basis that such claim is now moot.

This Motion is made on the grounds that there are no genuine issues of material fact presented in this case and that Defendant's authority to regulate a non-bank, state-chartered tax preparer such as Plaintiff doing business in Maryland is not preempted simply because such an entity acts as an agent of a national bank.

In support of this Motion, Defendant respectfully refers the Court to the accompanying Memorandum of Law and supporting exhibits attached thereto. A Proposed Order is also submitted for the Court's consideration.

Respectfully submitted,

DOUGLAS F. GANSLER.
Attorney General of Maryland

/s/
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